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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/529,997

03/31/2005

Norbert Cottone

71752

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23872

7590

10/11/2006

MCGLEW & TUTTLE, PC  
P.O. BOX 9227  
SCARBOROUGH STATION  
SCARBOROUGH, NY 10510-9227

EXAMINER

NICHOLSON III, LESLIE AUGUST

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/529,997	<b>Applicant(s)</b> COTTONE ET AL.	
	<b>Examiner</b> Leslie A. Nicholson III	<b>Art Unit</b> 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-15,17,20-30 is/are rejected.
- 7) ☒ Claim(s) 10,16,18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Due to Applicant's amendments, all previous objections to the drawings, specification, and claims are hereby withdrawn.

Due to Applicant's amendments, all previous 35 USC 112 1<sup>st</sup> and 2<sup>nd</sup> paragraph rejections are hereby withdrawn.

Applicant's arguments with respect to Smith and Proulx have been fully considered and are persuasive. The rejections of claims 1-20 as being unpatentable over Smith or Proulx are hereby withdrawn.

Applicant's arguments with respect to claims 21-23,25-27 as being unpatentable over Tommasi have been fully considered but they are not persuasive. Applicant argues Tommasi "fails to teach or suggest that a shaping means that maintains the shape of the piece goods during transport". In response, the Examiner disagrees. This limitation has been deleted by the Applicant in the response filed 8/17/2006 (line 12 of claim 21).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1,5,9,20,21,22,23,25,30 are rejected under 35 U.S.C. 102(b) as being anticipated by Tommasi USP 5,459,979.

Tommasi discloses a method for loading a loading space with piece goods comprising:

- feeding in the piece goods (1) in an area located outside a loading space (fig.1)
- shaping the piece goods in either individual or groupwise form (abstract)
- transferring the piece goods to the transfer unit and horizontally introducing the piece goods into said loading space (inherent, if not disclosed) (fig.2)
- providing a shaping means (4) for receiving piece goods, whereby said shaping means compresses the shape of the piece goods during transport
- separating the piece goods from said shaping means using a separating unit (2)
- depositing the piece goods within the loading space (fig.1)
- wherein the shaping of the piece goods takes place by a handling device (10) directly depositing the piece goods in the shaping means, such that the piece goods are compressed at least pairwise in the conveying direction of the feed unit (fig.1)
- wherein the piece goods are shoved together along a piece good row such that the piece goods are compressed along at least one axis oriented perpendicular to the extension of the piece good row (fig.1)
- wherein the piece goods are brought into said shaping means (4), such that the piece goods are shaped and said shaping means are used as loading means for transporting the piece goods into the loading space

4. Claims 1,5,6,7,8,9,11,12,13,14,20,21,22,23,24,25,28,29,30 are rejected under 35 U.S.C. 102(b) as being anticipated by Asano JP 62211213.

Asano discloses a method for loading a loading space with piece goods comprising:

- feeding in the piece goods (1) in an area located outside a loading space (fig.1)
- shaping the piece goods in either individual or groupwise form (fig.1)
- transferring the piece goods to the transfer unit (5) and horizontally introducing the piece goods into said loading space (inherent, if not disclosed from fig.1)
- providing a shaping means (2,3,9) for receiving piece goods, whereby said shaping means compresses the shape of the piece goods during transport
- separating the piece goods from said shaping means using a separating unit (7)
- depositing the piece goods within the loading space (inherent from fig.1)
- wherein the shaping of the piece goods takes place by a handling device directly depositing the piece goods in the shaping means, such that the piece goods are compressed at least pairwise in the conveying direction of the feed unit (fig.1,2)
- wherein the transfer of the piece goods into said shaping means takes place by sliding the piece goods into said shaping means, the piece goods being compressed within said shaping means by a handling system (fig.1,2)
- wherein separation takes place by the sliding of the piece goods from the loading means (element 7 pushes and slides the piece good from the shaping means)

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- wherein the piece goods are shoved together along a piece good row such that the piece goods are compressed along at least one axis oriented perpendicular to the extension of the piece good row (fig.1)
- wherein the piece goods are brought into said shaping means (4), such that the piece goods are shaped and said shaping means are used as loading means for transporting the piece goods into the loading space
- a made ready unit (rotationally moving piston conveyor in fig.1)
- wherein said shaping means is in the form of a U-shaped longitudinal profile with two spaced longitudinal profile arms (fig.1,2)
- wherein said feed means is a motor-driven linear conveyor (rotationally moving piston conveyor in fig.1) and has an accumulating conveyor (adjacent inclined slide in fig.1) as an end section
- wherein said accumulating conveyor comprises a stop face (stopper above inclined slide in fig.1) oriented transversely to the conveying direction of the feed device

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 26,27,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tommasi USP 5,459,979 in view of Kennison USP 4,264,253.

Tommasi discloses all the limitations of the claim, but does not expressly disclose the method wherein a plurality of parallel, juxtaposed piece good-filled loading means are provided in such a way that their total loading means width corresponds to the loading space width and in each case the length of the individual loading means corresponds to the length of the loading space and the plurality of loading means is introduced horizontally into the loading space until the entire loading means can be positioned within said loading space, wherein prior to the introduction of the plurality of loading means, there is a vertical orientation of said loading means with respect to a deposition surface located within the loading space.

Kennison teaches a plurality of parallel, juxtaposed piece good-filled loading means are provided in such a way that their total loading means (121d) (fig.8-11) width corresponds to the loading space (116) width and in each case the length of the individual loading means corresponds to the length of the loading space and the plurality of loading means is introduced horizontally into the loading space until the entire loading means can be positioned within said loading space, wherein prior to the introduction of the plurality of loading means, there is a vertical orientation of said loading means with respect to a deposition surface located within the loading space (abstract) (fig.1,2) for the purpose of forming a stack of piece goods equal to the size of the loading space.

At the time of invention it would have been obvious to one having ordinary skill in the art to have a plurality of parallel, juxtaposed piece good-filled loading means provided in such a way that their total loading means width corresponds to the loading space width and in each case the length of the individual loading means corresponds to the length of the loading space and the plurality of loading means is introduced horizontally into the loading space until the entire loading means can be positioned within said loading space, wherein prior to the introduction of the plurality of loading means, there is a vertical orientation of said loading means with respect to a deposition surface located within the loading space, as taught by Kennison, in the device of Tommasi, for the purpose of forming a stack of piece goods equal to the size of the loading space.

7. Claims 3,4,15,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tommasi USP 5,459,979 in view of Proulx USP 4,892,458.

Tommasi discloses all the limitations of the claim, but does not expressly disclose the transfer means as a vertically adjustable conveyor, or the loading unit comprising at least two vertically superimposed working planes, or the transfer means comprising at least one sensor.

Proulx teaches the transfer means (38) as a vertically adjustable conveyor, the loading unit comprising at least two vertically superimposed working planes (fig.1), and the transfer means comprising at least one sensor for the purpose of sending a signal



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when the layer is full and adjust the height of the conveyor when the next level is to be filled (C4/L29-39).

At the time of invention it would have been obvious to one having ordinary skill in the art to have the transfer means as a vertically adjustable conveyor, the loading unit comprise at least two vertically superimposed working planes, and the transfer means comprise at least one sensor, as taught by Proulx, in the device of Tomassi, for the purpose of sending a signal when the layer is full and adjust the height of the conveyor when the next level is to be filled

#### ***Allowable Subject Matter***

8. Claims 10,16,18,19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

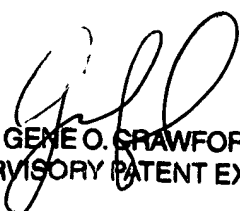
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie A. Nicholson III whose telephone number is 571-272-5487. The examiner can normally be reached on M-F, 8:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

L.N.  
9/27/2006

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER